

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

SUBCOMMITTEE ON SALES TAX

Call to Order: By **CHAIRMAN BOB DEPRATU**, on March 3, 1999 at
10:25 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chairman (R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Others Present: Terry Johnson, Legislative Fiscal Division
Gordon Morris, Montana Association of Counties
Judy Paynter, Department of Revenue
Jeff Miller, Department of Revenue
Jerry Leonard, Department of Revenue
Sen. Alvin Ellis Jr.

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Bills Discussed: SB 135, SB 143, SB 157

DISCUSSION ON SB 157

SEN. DEPRATU told the committee they had been given a deadline of March 13, 1999, by which to complete their analysis of the various sales tax bills and return to the standing committee with a summary report and suggested amendments.

In answer to questions by the committee during the previous meeting regarding salaries of county employees in the various classes, **Mr. Heiman** provided a listing of the sections that refer to classes of counties and salaries, **EXHIBIT(tas48b01)**. **SEN. ELLIS** asked **Mr. Morris** what he had referred to the previous day concerning salaries of county employees, and **Mr. Morris** pointed him to Section 7-4-2503, and said that there is another provision of law that gives class five counties the option to go part time.

Section 41, no changes.

Section 42, **Eligibility of land for valuation as agricultural:**

SEN. STANG asked how ag land is classified, and **SEN. ELLIS** said it was 100% of production value.

SEN. DEPRATU asked how cluster developments would be handled, and **Mr. Morris** said that the intent would be that the land would remain ag and be classified as ag based upon productivity, but that the portion that was set aside with the higher density provisions would then be taxed at market value.

Ms. Paynter read some language from staff, "The subtle changes in 15-7-202 (6) could result in a significant change in land valuation. Reference to taxing land less than 160 acres as provided in 15-8-111 may suggest that nonqualified ag land should be placed on the tax rolls at market value, especially since reference to the current method of valuing and taxing this type of land was struck, 15-6-133 (1)(c)." She asked if that might be an area that **Mr. Heiman** should look into and make sure that an explicit decision is made on that point. **SEN. DEPRATU** asked that **Mr. Heiman** to do that.

Sections 43, 44, no changes.

Section 45, **Assessments to be made on classification and appraisal:**

SEN. STANG asked why the assessment of commercial property was struck, and **Mr. Morris** said because the whole taxation is defined in another section, these sections are deleted.

Section 46, **General assessment day:**

SEN. GLASER asked what had been done with special mobile equipment, and **Mr. Morris** said that it had been struck because it is now exempt as personal property. He said they will still have

to have the SM plate, but that they would only be paying fees, no taxes.

Section 47, Motor vehicle assessment by department of justice:

SEN. STANG asked what was being struck in Section 4, and **Mr. Morris** answered that is personal property, except for mobile homes which are dealt with in another section. **SEN. STANG** said that goods, wares and merchandise seems like something a person would have for sale and should be considered inventory and excluded under that.

Section 48 and 49, no changes.

Section 50, Street railroads, bridges, and ferries:

SEN. DEPRATU asked if this was only related to street railroads, bridges and ferries, and **Mr. Morris** said that was correct. He said this section redefines those as real property.

SEN. DEPRATU asked if this would increase the tax on railroads, and **Mr. Morris** said that they are presently paying taxes as personal property, and under this it will be taxed as real property at the recalculated rate on a statewide basis.

Section 51, 52, 53, 54, 55 and 56, no changes.

Section 57, Refund of taxes - limitations on refunds:

SEN. STANG asked what 15-16-613 was, and **Ms. Paynter** said it relates to refunds for taxes paid on migratory property. She said that since this type of personal property is exempt, these sections are unnecessary.

Section 58, Reduction of property tax for property destroyed by natural disaster:

SEN. GLASER said that 15-16-119 is personal property.

Section 59, no changes.

Section 60, Properties centrally assessed:

SEN. STANG asked if the rolling stock had always been personal property, and **SEN. DEPRATU** explained that it is figured on a calculation as to how long it is in the state.

Section 61, no changes.

Section 62, Failure to file - estimate by department - penalty:

SEN. STANG asked if there was a bill somewhere dealing with delinquency penalties, and **Ms. Paynter** said that was **HB 172**, which is scheduled to be up tomorrow. **SEN. DEPRATU** said he thought that that bill increases the penalty fairly substantially. **Ms. Paynter** said that was true, although there are places where it is decreased. She said the purpose of the bill is to standardize.

Section 63 and 64, no changes.**Section 65, Assessment:**

SEN. STANG asked why the 4Rs Act was being eliminated, and **Ms. Paynter** said that it is not necessary to do that taxable percentage anymore because everything will be at market.

Section 66, 67 and 68, no changes.**Section 69, Taxation of gross proceeds:**

SEN. ELLIS said that the guaranteed tax base is also used in the equalization of capitalization because it is not fully funded, but that it is a formula that is used to subsidize new school buildings. **Mr. Morris** said that that issue is dealt with in Section 20. **SEN. DEPRATU** asked **Mr. Heiman** to check on that.

SEN. STANG asked what was being deleted with the elimination of whatever it is that terminates December 31, 2005, and **Mr. Heiman** said he would check that also.

Section 70, 71 and 72, no changes.**Section 73, Motor vehicles brought into state - assessment - exceptions:**

SEN. ELLIS asked what 61-3-520 dealt with, and he was told that it is a section dealing with motion picture issues.

Section 74, no changes.**Sections 75, 76, 77, 78:**

Ms. Paynter said that Department staff commented that this leaves in place the requirement for the Department to gather livestock information for the assessment of the per capita tax, and since livestock will no longer be taxable as property, there really

isn't a reason that the Department staff can see for the Department to be responsible for securing those numbers for the Department of Livestock, and there might be a better way to tax that. **SEN. ELLIS** suggested increasing the brand inspection fee.

SEN. STANG said it appears to him that the same thing should be done with this as was done with the fuel tax, that is, let the Department of Livestock assess the tax on it.

Mr. Morris said that that would require an amendment to change the department, and **Mr. Heiman** said he would check with people involved and get some information for the committee.

Section 79, 80, 81 and 82:

Ms. Paynter said that essentially the language strikes references to personal property but added the term "improvements," which includes certain types of properties that had previously been valued as personal property, and in the definition of improvements, that's changed.

Section 83, Application of suspension or cancellation:

SEN. ELLIS asked if this included transportation mills, and **Mr. Morris** said it included the six mills, the 33 and the 32.

Section 84, 85, 86 and 87, no changes.

Section 88, Distribution of taxes - rules:

Mr. Johnson asked whether the distribution of the non-levy portion will no longer be based on Fiscal Year 1990, but be based on the current mill levies, and **Mr. Morris** said that was correct, that it was in order to break away from having to go back and base it on 1989 as is presently done in most cases, and just make it distributed based upon current levies.

SEN. STANG asked what the tax consequences would be to those counties that have this, and **Mr. Morris** said the consequences would be the distribution in those taxing jurisdictions would be based upon their mill levies. He said the 95 mills are taken out to start with, and the school mills are reduced. He said the non-levy revenue is made up, and thus, a greater portion of the remainder is then distributed to fewer taxing jurisdictions than before. It is intended that everyone will break even.

Mr. Heiman said that there had always been a problem when looking at schools because different schools were in different positions

when those went into effect, and this gets rid of that bone of contention.

Ms. Paynter commented that the committee does need to decide how to deal with non-levy revenue which moves from the 95 mills into 6 mills, and it moves to the remaining mills that are on, it results in a shift of non-levy revenue from the state over to the counties, and even if the counties need to lower their mill levies so that they still meet budget limits, there is still a shift, and it results in a General Fund hole as that money is shifted over.

Ms. Paynter said another thing to consider is that the district whose re-allocation of this money is more than the distribution it was getting under previous mills, if all of that works out in every taxing jurisdiction, then there is no loser; however, that doesn't quite work out in every taxing jurisdiction and that may result in a loser. She said she thought the tendency was not to have losers, so the General Fund becomes the loser. **Mr. Morris** said that the bill allows for the current personal property tax reimbursement that stays with the state which makes up for a lot of the non-levy revenue that Judy is talking about, and in giving that up, it is anticipated that the higher return on the remaining portion of the nonlevy revenue will offset the revenue being lost on the personal property tax which will stay with the state, and that makes up for the state portion that they are supposedly losing.

SEN. DEPRATU asked **Mr. Morris** and **Ms. Paynter** to visit on this matter and advise the committee of their conclusions. **SEN. STANG** asked them also to check on whether there would be any losers.

Section 89 and 90, no changes.

Section 91, Tax on wine and hard cider:

SEN. DEPRATU asked if there was still no way to tax the wine sales that are taking place over the internet. **Mr. Heiman** said that under the U.S. Constitution, the states have incredible powers for liquor, unlike any other item, so the state can prohibit interstate transportation of liquor in the state, and as a result, as far as internet sales, the state has better control.

SEN. DEPRATU said this assumes to apply to these sales, although collecting could be another matter.

Section 92, no changes.

Section 93, Allocation to general road fund and school districts:

Mr. Morris said that Section 93 is the first opportunity to take a look at what this whole proposal does with school funding. The bill proposes to fund all schools up to BASE, and there will be reference to over-BASE. Where they are over-BASE, the forest reserve monies, that 33% that goes to schools, would apply to any over-BASE amounts and not be used to reduce the BASE.

Section 94, no changes.

Section 95, Authorization to expend during first year of biennium from appropriation for second year - proposed supplemental appropriation defined - limit on second-year expenditures:

Mr. Morris pointed out that this is the first reference to the guaranteed tax base being struck and, in lieu of that, funding up to BASE, with the possible exception the committee had already discussed.

Section 96, (Temporary) Statutory appropriations - definition - requisites for validity:

Mr. Heiman said this is the personal property reimbursement piece, page 72, line 30.

Section 97 and 98:

SEN. ELLIS asked if this change is like the changes in the first 30 sections, and he was told that it is. **Mr. Johnson** said that he had only examined the first 29 sections, but that he would check these also.

Section 99, no changes.

Section 100, Powers and duties:

SEN. DEPRATU asked if the Department of Revenue had comments, and **Ms. Paynter** said they did not, but that the Office of Public Instruction may. **SEN. STANG** said he would ask OPI to give the committee a list of their comments regarding these sections.

Section 101 and 102, no changes.

Section 103, Tuition report and payment provisions - exemption:

SEN. STANG commented that this section will probably be changed by **SEN. TOEWS** bill.

Section 104, no changes.

Section 105, County adult literacy programs - authorization to levy tax and establish fund:

Mr. Johnson said he would check this section also.

Section 106, 107 and 108, no changes.

Section 109, Duties of county treasurer:

SEN. DEPRATU asked if there was anything in this bill where community colleges are going to be treated any differently than what they have been in the past in relation to the others, and **Mr. Morris** said that when the bill was drafted, they neglected to ratchet down the 1.5 mills, but nothing else is changed. **Mr. Johnson** said he would also look at that.

Section 110 and 111, no changes.

MR. JOHNSON'S REPORT ON SECTION 2 - 29

Mr. Johnson provided a legal-sized page which reflected the county classification and adjusted market value, **EXHIBIT (tas48b02)**. He said he basically laid his information beside the information provided by **Mr. Morris**, and then added the "improved taxing capacity" by county. He said he took the certified taxable value numbers and computed how much revenue would be generated from 10 mills, then took that adjusted market value and the adjusted mill levies that would be applicable based on the amendment in **SB 157** and compared those to see how much revenue would be generated under the old way versus the new way. He indicated that "Yes" means that under the new bill, if they levied that ratcheted-down mill levy, they would actually generate more revenue. There are six counties in which that is not the case, and that means that under **SB 157**, if they were to apply the new percentages, they would generate less revenue.

Mr. Johnson then provided a second page, **EXHIBIT (tas48b03)**, which shows each section, what the purpose of that section is, and then shows the current law percentages, the **SB 157** proposed percentages, and finally the calculated ratio, which is what he recomputed based on the previous bottom line totals on the legal sheet. He pointed out that in all cases those calculated ratios, whether they be on a percentage basis or on mills, actually go up. These would be the new factors he would recommend would need to go into the bill to be consistent with this change in taxable value to market value.

SEN. DEPRATU reiterated that **Mr. Johnson** was suggesting that an amendment would be needed to roll these figures in in lieu of the figures in the bill, and **Mr. Johnson** said that was correct.

SEN. STANG asked if these new figures would improve the situation of the six counties, and **Mr. Johnson** said it would not. He said effectively, regardless of the mill levies, those particular counties that are flagged as "No" will not be changed. He said it might be helpful if he showed the certified taxable number, because, as an example, Big Horn County, to the extent that this adjusted taxable value number includes the add-backs to the certified taxable value. So any county that has oil or coal, or similar types of production, that value was added back in to get to the adjusted taxable value. He said his calculation for the "yes" and "no" is not based on that adjusted taxable value, it is based on the certified value, which does not have the value of coal and oil in it. This is only regarding mills, not non-levy revenues. **Mr. Johnson** said he would provide further information reflecting the certified taxable value numbers which would help clarify this.

Motion/Vote: **SEN. DEPRATU MOVED AN AMENDMENT TO REPLACE THE NUMBERS IN SB 157 WITH THOSE OF MR. JOHNSON. Motion carried 3-0.**

ADJOURNMENT

Adjournment: 11:55 A.M.

SEN. BOB DEPRATU, Chairman

SANDY BARNES, Secretary

GD/SB

EXHIBIT (tas48bad)